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6 **BEFORE THE**  
7 **BOARD OF REGISTERED NURSING**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2011-531

11 **RITA LOUISE SEDIVY**

5940 Nagle Avenue

Van Nuys, CA 91401

Registered Nurse License No. 419640

**DEFAULT DECISION AND ORDER**

12 Respondent. [Gov. Code, §11520]

13  
14 **FINDINGS OF FACT**

15 1. On or about December 15, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her  
16 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
17 Consumer Affairs, filed Accusation No. 2011-531 against Rita Louise Sedivy (Respondent)  
18 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

19 2. On or about October 31, 1987, the Board of Registered Nursing (Board) issued  
20 Registered Nurse License No. 419640 to Respondent. The Registered Nurse License was in full  
21 force and effect at all times relevant to the charges brought herein and will expire on September  
22 30, 2011, unless renewed.

23 3. On or about December 15, 2010, Respondent was served by Certified and First Class  
24 Mail copies of the Accusation No. 2011-531, Statement to Respondent, Notice of Defense,  
25 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
26 and 11507.7) at Respondent's address of record which, pursuant to California Code of  
27 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,  
28 which was and is:

5940 Nagle Avenue  
Van Nuys, CA 91401.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.

5. Government Code section 11506 states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

6. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2011-531.

7. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2011-531, finds that the charges and allegations in Accusation No. 2011-531, are separately and severally, found to be true and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$2,395.00 as of March 14, 2011.

#### **DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Rita Louise Sedivy has subjected her Registered Nurse License No. 419640 to discipline.

1           2.     The agency has jurisdiction to adjudicate this case by default.

2           3.     The Board of Registered Nursing is authorized to revoke Respondent's Registered  
3 Nurse License based upon the following violations alleged in the Accusation which are supported  
4 by the evidence contained in the Default Decision Evidence Packet in this case:

5           a.     Business and Professions Code sections 490 and 2761, subdivision (f), Conviction of  
6 Substantially Related Crime.

7           b.     Business and Professions Code sections 2761, subdivision (a), and 2762, subdivision  
8 (b), Dangerous Use of Alcohol.

9           c.     Business and Professions Code sections 2761, subdivision (a), and 2762, subdivision  
10 (c), Conviction Involving Consumption of Alcohol.

11                                 **ORDER**

12           IT IS SO ORDERED that Registered Nurse License No. 419640, heretofore issued to  
13 Respondent Rita Louise Sedivy, is revoked.

14           Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
15 written motion requesting that the Decision be vacated and stating the grounds relied on within  
16 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
17 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

18           This Decision shall become effective on June 20, 2011.

19           It is so ORDERED May 20, 2011.

20  
21                                 *Glenne K. Brown*  
22                                 FOR THE BOARD OF REGISTERED NURSING  
23                                 DEPARTMENT OF CONSUMER AFFAIRS

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26           default decision\_LIC.rtf  
27           DOJ Matter ID:LA2010503612

28           Attachment:  
          Exhibit A: Accusation

Exhibit A

Accusation

30/11/11 14:53

10/11/11 14:53

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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-531

13 **RITA LOUISE SEDIVY**  
5940 Nagle Avenue  
Van Nuys, CA 91401

**A C C U S A T I O N**

14 Registered Nurse License No. 419640

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about October 31, 1987, the Board of Registered Nursing (Board) issued  
23 Registered Nurse License No. 419640 to Rita Louise Sedivy (Respondent). The Registered Nurse  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on September 30, 2011, unless renewed.

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1       "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
2 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
3 conclusive evidence thereof."

4       7. Section 2762 states, in pertinent part:

5       "In addition to other acts constituting unprofessional conduct within the meaning of this  
6 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
7 chapter to do any of the following:

8       ....

9       "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
10 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
11 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
12 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
13 ability to conduct with safety to the public the practice authorized by his or her license.

14       "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
15 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
16 or the possession of, or falsification of a record pertaining to, the substances described in  
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
18 thereof."

19       8. Section 2764 provides, in pertinent part, that the expiration of a license shall not  
20 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
21 to render a decision imposing discipline on the license.

22                               **REGULATORY PROVISIONS**

23       9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

24       "A conviction or act shall be considered to be substantially related to the qualifications,  
25 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
26 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
27 safety, or welfare."

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1 **COST RECOVERY**

2 10. Section 125.3 provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of a Substantially Related Crime)**

8 11. Respondent is subject to disciplinary action under section 2761, subdivision (f) and  
9 490, as defined in California Code of Regulations, title 16, section 1444, in that Respondent was  
10 convicted of a crime substantially related to the qualifications, functions or duties of a registered  
11 nurse. On or about May 5, 2009, after pleading nolo contendere, Respondent was convicted of  
12 one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while  
13 having 0.08% and more, by weight, of alcohol in her blood] in the criminal proceeding entitled  
14 *The People of the State of California v. Rita Louise Sedivy* (Super. Ct. Los Angeles County, 2009,  
15 No. 9VY00805). The Court placed Respondent on probation for 36 months, with terms and  
16 conditions. The circumstances surrounding the conviction are that on or about February 17, 2009,  
17 Respondent drove a vehicle while having 0.08% and more, by weight, of alcohol in her blood,  
18 and collided with another vehicle resulting in injuries and damages to another. While speaking to  
19 Respondent, the Los Angeles Police Department Officer detected a strong odor of alcohol  
20 emitting from her breath. She was observed to have red eyes, slurred speech, and her face was  
21 pale. When asked if she had anything to drink that day, Respondent indicated that she did not.  
22 She was arrested for violating Vehicle Code section 23153, subdivision (a) [driving under the  
23 influence of alcohol or drugs, resulting in injuries to another]. During the booking procedure,  
24 Respondent submitted to a breath test that resulted in a blood-alcohol content level of 0.21% on  
25 the first reading and 0.22% on the second reading.

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**SECOND CAUSE FOR DISCIPLINE**

**(Dangerous Use of Alcohol)**

12. Respondent is subject to disciplinary action under section 2761, subdivision (a), as defined in section 2762, subdivision (b), in that on or about February 17, 2009, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself, and the public, when she operated a vehicle while having approximately 0.22% of alcohol in her blood. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

**THIRD CAUSE FOR DISCIPLINE**

**(Conviction Involving Consumption of Alcohol)**

13. Respondent is subject to disciplinary action under section 2761, subdivision (a), as defined in section 2762, subdivision (c), in that on or about May 5, 2009, Respondent was convicted of a crime involving the consumption of alcohol. Complainant refers to, and by his reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1.1. Revoking or suspending Registered Nurse License No. 419640, issued to Rita Louise Sedivy;

1.2. Ordering Rita Louise Sedivy to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

1.3. Taking such other and further action as deemed necessary and proper.

DATED: 12/15/10

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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